

# OPEN MEETING ITEM

COMMISSIONERS  
KRISTIN K. MAYES – Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



0000100199

Interim Executive Director

## ARIZONA CORPORATION COMMISSION

ORIGINAL

DATE: JULY 1, 2009  
DOCKET NO: T-20611A-08-0405

Arizona Corporation Commission  
**DOCKETED**

JUL - 1 2009

TO ALL PARTIES:



Enclosed please find the recommendation of Administrative Law Judge Belinda A. Martin. The recommendation has been filed in the form of an Order on:

RELiance COMMUNICATIONS INTERNATIONAL, INC.  
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

JULY 10, 2009

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

JULY 28, 2009 and JULY 29, 2009

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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1  
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 **COMMISSIONERS**

4 KRISTIN K. MAYES, Chairman  
5 GARY PIERCE  
6 PAUL NEWMAN  
7 SANDRA D. KENNEDY  
8 BOB STUMP

9 IN THE MATTER OF THE APPLICATION  
10 OF RELIANCE COMMUNICATIONS  
11 INTERNATIONAL, INC. FOR A  
12 CERTIFICATE OF CONVENIENCE AND  
13 NECESSITY TO PROVIDE RESOLD LONG  
14 DISTANCE TELECOMMUNICATIONS  
15 SERVICES.

DOCKET NO. T-20611A-08-0405

DECISION NO. \_\_\_\_\_

**ORDER**

11 Open Meeting  
12 July 28 and 29, 2009  
13 Phoenix, Arizona

14 **BY THE COMMISSION:**

15 \* \* \* \* \*

16 Having considered the entire record herein and being fully advised in the premises, the  
17 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

18 **FINDINGS OF FACT**

19 1. On August 1, 2008, Reliance Communications International, Inc. ("Reliance" or  
20 "Company"), filed with the Commission an application for a Certificate of Convenience and  
21 Necessity ("CC&N") to provide competitive resold long distance telecommunications services within  
22 a service area encompassing the entire State of Arizona ("Application").

23 2. On October 22, 2008, the Company filed its Affidavit of Publication stating that  
24 Notice of the Application was published on September 23, 2008, in the *Arizona Business Gazette*.

25 3. On April 14, 2009, Reliance filed its responses to the Commission's Utilities Division  
26 Staff's ("Staff") First Set of Data Requests.

27 4. On May 13, 2009, Staff filed its Staff Report recommending approval of Reliance's  
28 Application, subject to certain conditions.

**Fitness and Properness to Obtain a CC&N**

5. Reliance is a Delaware corporation, granted authority on May 27, 2004, to do business in Arizona as a foreign corporation.

6. Reliance is in good standing with the Commission's Corporations Division.

7. Reliance does not currently hold a CC&N to provide telecommunications services in Arizona and is not providing telecommunications services in Arizona.

8. Reliance has indicated that neither Reliance nor any of its officers, directors, partners, or managers have been or are currently involved in any civil or criminal investigations, have had judgments entered in any civil or criminal matter or levied by any administrative or regulatory agency, nor have been convicted of any criminal acts within the past 10 years.

9. Reliance has indicated that neither Reliance nor any of its officers, directors, partners, or managers have been or currently are involved in any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency, or law enforcement agency.

10. Staff contacted the public utility commissions ("PUCs") in the nine states<sup>1</sup> in which Reliance asserts it is authorized to offer telecommunications services to verify that Reliance is certificated or registered to provide telecommunication services, and to inquire as to consumer complaints. According to Staff, none of the PUCs contacted reported any complaints against the Company.

**Technical Capabilities**

11. Reliance intends to offer resold long distance telecommunications services to subscribers in Arizona. The Company indicated that its plans include the provision of pre-paid and post-paid calling services purchased on its website by customers.

12. Reliance has authority to provide telecommunications services in nine states, but has not begun providing service.

13. Reliance's four key management personnel have more than 73 years combined

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<sup>1</sup> Reliance is authorized to provide telecommunications services in Arkansas, California, Colorado, Florida, Illinois, Indiana, Montana, New York, and Texas.

1 experience in the telecommunications communications industry.

2 14. Staff has determined that Reliance has sufficient technical capabilities to provide  
3 resold long distance telecommunications services in Arizona.

4 **Financial Resources**

5 15. Reliance provided audited financial statements for the 12-month period ending March  
6 31, 2008. The financial statement for this period lists total assets of \$25,817,361, total equity of  
7 \$3,836,342, and net income of \$1,914,398. The Company also provided financial statements for the  
8 12-month period ending March 31, 2007. The financial statement for this period lists total assets of  
9 \$19,595,402, total equity of \$1,921,944, and net income of \$1,869,290.

10 16. The Company notes that, if necessary, it will rely on the financial resources of its  
11 parent company, Reliance Communications, Inc.

12 17. Reliance projects total revenues generated by the provision of telecommunications  
13 services to Arizona customers for the first 12 months of operations to be \$204,500, with operating  
14 expenses during that period of \$19,300.

15 18. Reliance projects the net book value of all Arizona jurisdictional assets and the  
16 projected value of all Arizona assets after the first 12 months of operations to be zero.

17 19. Staff stated that Reliance's experiencing financial difficulty would have only a  
18 minimal impact on its customers because many companies provide resold long distance  
19 telecommunications services, and facilities-based providers are also available.

20 **Proposed Rates**

21 20. Staff indicates that the rates proposed by Reliance are for competitive services and  
22 rates for competitive telecommunications services are generally not established according to rate-of-  
23 return regulation.

24 21. Staff has determined that Reliance's fair value rate base ("FVRB") is zero. While  
25 Staff considered the FVRB information submitted by Reliance, Staff determined that the FVRB  
26 information should not be given substantial weight in its analysis.

27 22. As a reseller of services purchased from other telecommunications companies,  
28 Reliance will have no market power and will have to compete with other providers to obtain

1 subscribers to its services. In light of this competitive market, Staff believes that Reliance's proposed  
2 tariffs will be just and reasonable.

3 23. Staff has reviewed Reliance's proposed rates and determined that they are just and  
4 reasonable.

5 24. Reliance's tariff indicates that it will not collect advance payments or deposits from its  
6 resold long distance customers. However, Reliance's will utilize pre-paid calling services purchased  
7 on its website by its customers. As such, in order to protect Arizona customers, Staff recommends  
8 that Reliance be required to provide either a performance bond or irrevocable sight draft letter of  
9 credit in the amount of \$10,000.

10 **Regulatory Requirements**

11 25. Commission rules require Reliance to file a tariff for each competitive service that  
12 states the maximum rate as well as the effective (actual) price that will be charged for the service.  
13 Under Arizona Administrative Code ("A.A.C.") R14-2-1109(A), the minimum rate for a service must  
14 not be below the total service long-run incremental cost of providing the service. Any change to  
15 Reliance's effective price for a service must comply with A.A.C. R14-2-1109, and any change to the  
16 maximum rate for a service in Reliance's tariff must comply with A.A.C. R14-2-1110.

17 26. A.A.C. R14-2-1204(A) requires all telecommunications service providers that  
18 interconnect to the public switched network to provide funding for the Arizona Universal Service  
19 Fund ("AUSF"). A.A.C. R14-2-1204(B)(3)(a) requires new telecommunications service providers  
20 that begin providing toll service after April 26, 1996, to pay AUSF charges as provided under A.A.C.  
21 R14-2-1204(B)(2).

22 27. A.A.C. R14-2-1901 et seq. establish requirements to protect Arizona consumers from  
23 unauthorized carrier changes ("slamming") and apply to each public service corporation providing  
24 telecommunications services within the State of Arizona and over which the Commission has  
25 jurisdiction.

26 28. A.A.C. R14-2-2001 et seq. establish requirements to protect Arizona consumers from  
27 unauthorized carrier charges ("cramming") and apply to each public service corporation providing  
28 telecommunications services within the State of Arizona and over which the Commission has

1 jurisdiction.

2       29.    A.A.C. R14-2-1107 requires a competitive telecommunications service provider to file  
3 an application for authorization with the Commission before it discontinues service; the rule also  
4 establishes customer notice requirements and other requirements related to discontinuance of service.

5 **Competitive Services**

6       30.    Staff states that there are alternatives to Reliance's services, the Company will have to  
7 convince potential customers to purchase its services, and the Company has no ability to adversely  
8 affect the interexchange service markets. As such, Staff recommends that the Company's proposed  
9 services be classified as competitive.

10 **Staff's Recommendations**

11       31.    Staff recommends approval of Reliance's Application and further recommends:

- 12
- 13           a. That Reliance be ordered to comply with all Commission rules, orders, and  
14 other requirements relevant to the provision of intrastate telecommunications  
15 service;
- 16           b. That Reliance be ordered to maintain its accounts and records as required by  
17 the Commission;
- 18           c. That Reliance be ordered to file with the Commission all financial and other  
19 reports that the Commission may require, in a form and at such times as the  
20 Commission may designate;
- 21           d. That Reliance be ordered to maintain on file with the Commission all current  
22 tariffs and rates and any service standards that the Commission may require;
- 23           e. That Reliance be ordered to comply with the Commission's rules and to  
24 modify its tariffs to conform to those rules if it is determined that there is a  
25 conflict between Reliance's tariffs and Commission rules;
- 26           f. That Reliance be ordered to cooperate with Commission investigations,  
27 including but not limited to customer complaints;
- 28           g. That Reliance be ordered to participate in and contribute to the AUSF as  
required by the Commission;
- h. That Reliance be ordered to notify the Commission immediately upon changes  
to its name, address, or telephone number;

- i. That Reliance's intrastate interexchange service offerings be classified as competitive pursuant to A.A.C. R14-2-1108;
- j. That the maximum rates for Reliance's services be the maximum rates proposed by Reliance in its proposed tariffs;
- k. That the minimum rates for Reliance's services be the total service long-run incremental costs of providing those services, as set forth in A.A.C. R14-2-1109;
- l. If Reliance states only one rate for a service in its proposed tariff, that the rate stated be the effective (actual) price to be charged for the service as well as the service's maximum rate;
- m. That Reliance's FVRB is zero;
- n. That should Reliance request to discontinue and/or abandon its service area, Reliance must provide notice to both the Commission and its customers, in accordance with A.A.C. R-14-2-1107; and
- o. That Reliance be ordered to do the following and that its CC&N be rendered null and void, after due process, if it fails to do the following:
  - i. Reliance shall docket conforming tariffs for each service within its CC&N within 365 days from the date of an Order in this matter or 30 days before providing service, whichever comes first.
  - ii. Reliance shall procure either a performance bond or an irrevocable sight draft letter of credit equal to \$10,000.
  - iii. Reliance shall docket proof of the original performance bond or irrevocable sight draft letter of credit with the Commission's Business Office and copies of the performance bond or irrevocable sight draft letter of credit with Docket Control, as a compliance item in this docket, within 30 days of the effective date of a Decision in this matter. The performance bond or irrevocable sight draft letter of credit must remain in effect until further order of the Commission. The Commission may draw on the performance bond or irrevocable sight draft letter of credit, on behalf of, and for the sole benefit of, the Company's customers, if the Commission finds, in its discretion, that the Company is in default of its obligations arising from its Certificate. The Commission may use the performance bond or irrevocable sight draft letter of credit funds, as appropriate, to protect the Company's customers and public interest and take any and all actions the Commission deems necessary, in its discretion, including, but not limited to, returning prepayments or deposits collected from the Company's customers.

32. Staff's recommendations are reasonable and should be adopted.

**CONCLUSIONS OF LAW**

1. Upon receiving a CC&N, Reliance will be a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Reliance and the subject matter of the Application.

3. A.R.S. § 40-282 allows a telecommunications company to file an application for a CC&N to provide competitive telecommunications services.

4. A.R.S. § 40-282 allows the Commission to grant a CC&N without first conducting a hearing if the CC&N is for resold telecommunications services.

5. Notice of Reliance's Application was given in accordance with Arizona law.

6. Pursuant to Article XV of the Arizona Constitution and the Arizona Revised Statutes, it is in the public interest for Reliance to provide the telecommunications services for which it has requested authorization in its Application.

7. Reliance is a fit and proper entity to receive a CC&N authorizing it to provide resold long distance telecommunications services in the State of Arizona.

8. The telecommunications services that Reliance desires to provide are competitive in Arizona.

9. Pursuant to Article XV of the Arizona Constitution and 14 A.A.C. 2, Article 11, it is just and reasonable and in the public interest for Reliance to establish rates and charges for competitive services that are not less than Reliance's total service long-run incremental costs of providing the competitive services approved herein.

10. Staff's recommendations, as set forth in Findings of Fact No. 31, are reasonable and should be adopted.

11. Reliance's fair value rate base is not useful in determining just and reasonable rates for the competitive services it proposes to provide Arizona customers.

12. Reliance's rates, as they appear in its proposed tariffs, are just and reasonable and should be approved.



**ORDER**

IT IS THEREFORE ORDERED that the Application of Reliance Communications International, Inc., for a Certificate of Convenience and Necessity to provide competitive resold long distance telecommunications services in Arizona is hereby granted conditioned upon compliance with conditions set forth in Findings of Fact No. 31.

IT IS FURTHER ORDERED that if Reliance Communications International, Inc., fails to meet the conditions outlined in Findings of Fact No. 31(o) within the timeframes stated therein, the Certificate of Convenience and Necessity conditionally granted herein shall become null and void after due process.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_

IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
MICHAEL P. KEARNS  
INTERIM EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: RELIANCE COMMUNICATIONS  
2 INTERNATIONAL, INC.

3 DOCKET NO.: T-20611A-08-0405

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